

REMARKS

Claims 1-40 were originally presented in the parent application. Claims 41-50 were added in a Preliminary Amendment dated March 7, 2002. Claims 41, 43 and 44 were amended, and claims 51-54 were added in a Supplemental Preliminary Amendment dated February 6, 2003. Claims 1, 13, 27 and 51-54 were also amended in a Second Supplemental Preliminary Amendment dated July 22, 2003. Claims 13, 27 and 53 have herein been amended to more particularly point out and distinctly claim the present invention. No claims have herein been added or canceled. Therefore, claims 1-54 remain in this case.

The addition of new matter has been scrupulously avoided.

Applicant respectfully requests reconsideration and withdrawal of the grounds of rejection.

Priority

The Office Action required that the cross-reference to related applications be updated. As required, Applicant has updated the cross-reference.

Oath/Declaration

The Office Action noted that the oath or declaration improperly identified the parent application, and required that a new oath or declaration be provided.

As required, Applicant has provided herewith a new oath or declaration indicating the serial number of the present application.

35 U.S.C. §101 Rejection

Double Patenting Rejection

The Office Action rejected claims 13-40 under 35 U.S.C. §101, as allegedly claiming the same invention as that of claims 13-40 of prior U.S. Patent No. 6,337,205 (hereinafter,

“the Issued Patent”). Applicant respectfully, but most strenuously, traverses this rejection as it applies to the amended claims.

As amended, Applicant submits that claim 13 of the present application is clearly not of the same scope as claim 13 in the Issued Patent. As such, any lingering allegation of obviousness-type double patenting is addressed by the enclosed Terminal Disclaimer.

With regard to claim 27, Applicant has amended claims 27 and 53 in tandem. Claim 53 has been amended to resemble claim 27 as it existed prior to the present amendment, with the sole exception of the amendment from “at least one nucleating structure” to --at least two nucleating structures--. Thus, as amended, Applicant submits that claim 53 is of different scope than claim 27 of the Issued Patent. Consequently, any allegation of obviousness type double patenting is addressed by the enclosed Terminal Disclaimer.

Correspondingly, claim 27 has been amended to resemble claim 53 as it existed prior to the present amendment. Thus, Applicant submits that amended claim 27 should receive the same treatment as claim 53 prior to the amendment herein; that is, being rejected under obviousness-type double patenting. Thus, the enclosed terminal disclaimer should also address amended claim 27.

Obviousness-Type Double Patenting Rejection

The Office Action rejected claims 1-12 and 41-54 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-40 of prior U.S. Patent No. 6,337,205.

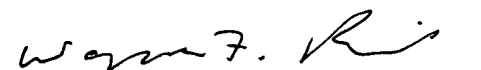
In response, Applicant submits herewith a Terminal Disclaimer.

CONCLUSION

For all the above reasons, Applicant maintains that the claims of the subject application define patentable subject matter and earnestly requests allowance of claims 1-54.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Wayne F. Reinke", is written over a horizontal line.

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